

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.02.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.1460 of 2016

M.Venkatachalam

.. Petitioner

Vs.

1. The Sub Collector /RDO
Perambalur,
Perambalur District.

2. The Tahsildar,
Alathur Taluk,
Alathur,
Perambalur District.

3. Krishnasamy

4. Sellamuthu

... Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to pass final orders on the basis of the enquiry already conducted on the petitioner's representation dated 31.08.2015 with respect to cancellation of assignment of land comprised in Old S.No.448/22 and New S.No.510/20, Kolakkanatham Village, Alathur Taluk, Perambalur District within the time that may be fixed by this Court.

For Petitioner : Mr.P.Mani

For Respondents
No.1 & 2

: Ms.R.Janaki
Additional Government Pleader

For Respondents
No.3 & 4

: Not ready in notice

O R D E R

The petitioner has come up with this writ petition seeking issuance of Writ of Mandamus to direct the first respondent to pass final orders on the basis of the enquiry already conducted on his representation dated 31.08.2015 with respect to cancellation of assignment of land comprised in Old S.No.448/22 and New S.No.510/20, Kolakkanatham Village, Alathur Taluk, Perambalur District.

2. It is the case of the petitioner that the property measuring an extent of 00649 sq.ft. comprised in Survey No.510/15 situated at Kolakkanatham Village, has been originally categorised as "Kuttai". In the above extent, an extent of 0076 Sq.Meter was assigned to petitioner's wife Rajamani as per the proceedings of the second respondent dated 17.05.2015. The remaining extent of 0573 Sq.Mtr available in the above Survey No.510/15 was categorised as "Kuttai" in the sub division. After the demise of the said Rajamani, mutation has been effected and patta was given in favour of the petitioner and his son Elango, as per the proceedings of the second respondent dated 18.03.2009.

3. It is also stated that the property measuring an extent of 0.01.cents comprised in Old Survey No.448/22, New Survey No.510/20 in Kolakkanatham Village was assigned to the third respondent in the year 1976 with certain conditions, one of which is that the assignee should not alienate the said assigned land to third parties within 10 years. However, the third respondent had sold the property to the fourth respondent herein, by virtue of Sale Deed No.1177 of 1983.

4. Due to personal enmity between the petitioner and the respondents 3 and 4, the fourth respondent's son sent a complaint to the first respondent against the petitioner to cancel the assignment in favour of the petitioner's wife. Based on the said complaint, the first respondent cancelled the said assignment in favour of the petitioner's wife on the ground that the said land is a "Kuttai Poromboke", vide his proceedings dated 17.11.2004.

5. Likewise, the petitioner gave a representation on 31.08.2015 to the first respondent against the third respondent alleging that he had sold the assigned property in contravention to the terms and conditions. The first respondent issued notice of enquiry to the petitioner and the respondents 3 and 4 calling upon them to attend the enquiry and the petitioner appeared before the first respondent for the said enquiry. But, till date, no order has been passed on the said representation.

Hence, the petitioner has filed this Writ Petition.

6. The second respondent has filed the counter affidavit, wherein, in paragraph 7(d), it is stated that the first respondent caused notice to the petitioner, based on the representation dated 03.11.2015 and sent a notice of enquiry in Rc.No.A4/3981/2015 dated 08.12.2015 calling upon explanations from the concerned parties. Admittedly, the petitioner also submitted a reply on 18.12.2015. The second respondent has stated that due to the pendency of W.P.No.39777 of 2015 before this Court, O.S.No.642 of 2014 on the file of District Munsif Court, Perambalur and Appeal before the Collector of Perambalur District, no final orders could be passed.

7. Heard Ms.R.Janaki, learned Additional Government Pleader on behalf of the respondents 1 and 2.

8. The learned counsel for the petitioner states that the writ petition filed by the fourth respondent is for cancellation of patta, which relates to a different property.

9. Be that as it may. Having conducted an enquiry, the first respondent ought to have passed an order, considering the merits of the case. Even if there is any difficulty in passing orders due to pendency of any matter, the same to be communicated to the petitioner.

10. Considering the facts and circumstances of the case, as enquiry has already been completed, this Court, without expressing any opinion on the merits of the case, is of the view that the first respondent shall issue one more notice to the petitioner, if need be and conduct an enquiry and after affording opportunity of hearing to all the parties interested including the respondents 3 and 4, the first respondent shall pass appropriate orders on the said representation, dated 31.08.2015, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

11. With the above directions, this writ petition stands disposed of. No costs.

srn

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

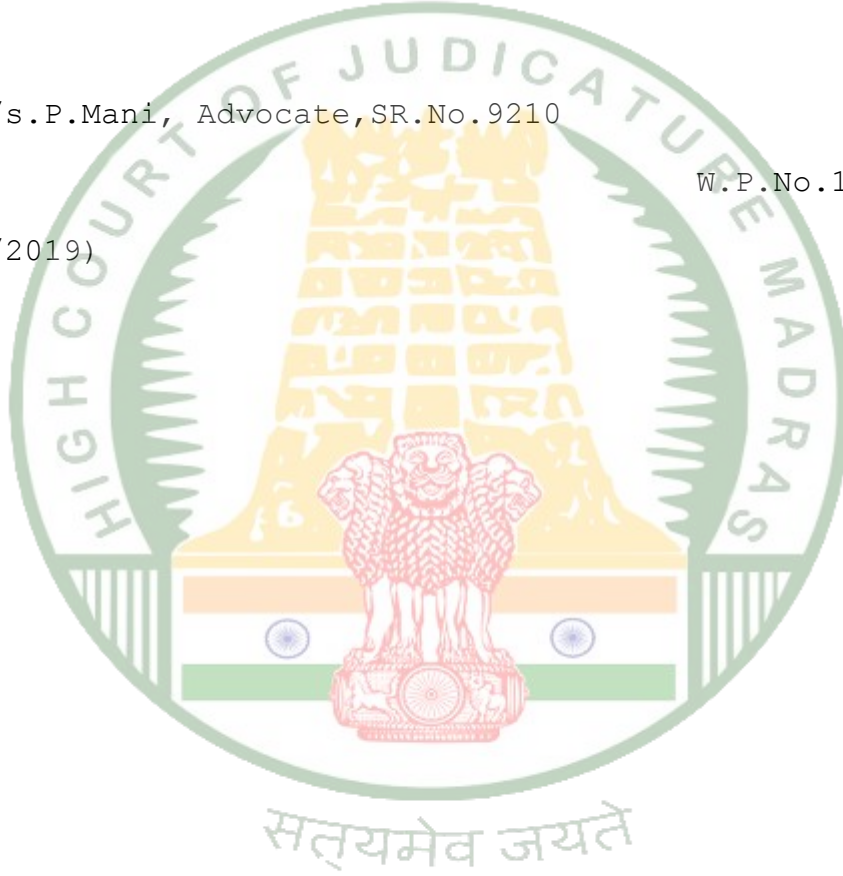
To

1. The Sub Collector /RDO
Perambalur,
Perambalur District.
2. The Tahsildar,
Alathur Taluk,
Alathur,
Perambalur District.

+1cc to M/s.P.Mani, Advocate, SR.No.9210

W.P.No.1460 of 2016

rsv(CO)
kak(27/02/2019)



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